

Amend Revenue and Taxation Code Section 6355 of the Sales and Use Tax Law to change the date in which the BOE is required to calculate the bulk sales threshold for coins and bullion. (Technical)

Source: Sales and Use Tax Department

Existing Law. Revenue and Taxation Code Section 6355 provides a sales and use tax exemption for the sale and purchase “in bulk” of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins. Section 6355 provides that the initial bulk threshold amount is \$1,000. Since 1993, the statute has also required the BOE to adjust the \$1,000 bulk threshold amount on an annual basis. This adjustment requires the BOE to multiply the current bulk threshold amount by the inflation factor adjustment on or before September 1 of each year. When the result of this calculation is \$500 greater than the existing threshold, the threshold is adjusted and rounded to the nearest \$500 increment. For example, if the bulk sale threshold amount is currently \$1,500, and multiplying this amount by the inflation factor adjustment results in a new threshold of \$1,700, the bulk sale threshold does not become operative since it does not exceed the \$500 increment (it must equal or exceed \$2,000 to become operative). The next year, the \$1,700 threshold must be multiplied by the inflation factor adjustment to determine the new threshold. (Currently, based on the cumulative inflation factor adjustment, the operative bulk sale exemption threshold is \$1,500, and has been so since January 1, 2009.)

The inflation factor adjustment is based on a comparison of the California Consumer Price Index (CCPI) as published by the Department of Industrial Relations for June of each year. Once the calculation is made by BOE staff, the issue is placed on the BOE’s consent agenda for the August BOE meeting to officially adopt the new threshold. However, the CCPI for June is generally not available until late August of each year. Since items placed on the BOE Meeting agenda are subject to public notice, and require management review prior to placing on the agenda, this calculation must be done by staff by the end of July. Since the CCPI is generally not available, staff has had to track down “preliminary numbers” for the purposes of performing the calculation. Often, it is difficult to obtain the preliminary numbers in a timely manner in order to have this item on the August agenda.

This Proposal. This proposal would change the date from September 1 to October 1 of each year by which the BOE must determine the bulk sale threshold. Changing the date from September 1 to October 1 will allow staff sufficient time to obtain the June CCPI, prepare the necessary calculation, and place the item on the BOE meeting agenda. An October 1 date will still provide for adequate lead time in amending Regulation 1599 and notifying the public in the event the calculation results in a new operative threshold.

Section 6355 of the Revenue and Taxation Code is amended to read as follows:

6355. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale in bulk of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins that are substantially equivalent to transactions in securities or commodities through a national securities or commodities exchange

and the storage, use, or other consumption in this state of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins so sold.

(b) (1) A sale in bulk, for purposes of this section, shall be deemed to have occurred if the amount of monetized bullion, nonmonetized gold or silver bullion, and numismatic coins sold in the transaction totals, in market value, the sum of one thousand dollars (\$1,000) or more, or its equivalent.

(2) The board shall adjust the one thousand dollar (\$1,000) amount specified in paragraph (1) as follows:

(A) On or before September 1, 1994, and on or before each ~~September~~ October 1 of each year thereafter, the board shall multiply the amount applicable for the current calendar year by the inflation factor adjustment determined by the Franchise Tax Board pursuant to subdivision (h) of Section 17041, the resulting amount to be the applicable amount for the succeeding calendar year. The applicable amount shall be operative as an adjustment of the amount specified in paragraph (1) only when the applicable amount computed is equal to or exceeds a new operative threshold, as defined in subparagraph (C).

(B) When the applicable amount equals or exceeds an operative threshold specified in subparagraph (C), the resulting applicable amount, rounded to the nearest multiple of five hundred dollars (\$500), shall be operative for purposes of paragraph (1) beginning January 1 of the succeeding calendar year.

(C) For purposes of this paragraph, "operative threshold" means an amount that exceeds by a least five hundred dollars (\$500), the greater of either the amount specified in paragraph (1) or the amount computed pursuant to subparagraphs (A) and (B) as the operative adjustment to the amount specified in paragraph (1).

(c) "Monetized bullion," for purposes of this section, means coins or other forms of money manufactured of gold, silver, or other metal and heretofore, now, or hereafter used as a medium of exchange under the laws of this state, the United States, or any foreign nation. "Monetized bullion," for purposes of this section, also means gold medallions struck under authority of the American Arts Gold Medallion Act (Title IV of Public Law 95-630).

(d) A sale of monetized bullion, nonmonetized gold or silver bullion, or numismatic coins, for purposes of this section, shall be deemed to be substantially equivalent to a transaction in securities or commodities through a national securities or commodities exchange, if the sale is by or through a person registered pursuant to the Commodity Exchange Act (7 U.S.C. Sec. 1 et seq.) or not required to be registered under the Commodity Exchange Act.